

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DARRELL WAYNE BAILEY,)	
)	
Petitioner,)	
vs.)	NO. CIV-07-1128-HE
)	
MARTY SIRMONS, warden,)	
)	
Respondent.)	

ORDER

Petitioner Darrell Wayne Bailey, a state prisoner appearing *pro se*, instituted this action under 28 U.S.C. § 2254 seeking habeas relief. Consistent with 28 U.S.C. §636(b)(1)(B), the matter was referred for initial proceedings to Magistrate Judge Gary M. Purcell, who has recommended that the petition be denied.

The petitioner was convicted by a jury of robbery in the second degree after former conviction of two or more felonies. He was sentenced to a sixty year term of imprisonment, which was to run consecutively to a sentence the petitioner received in another case for a robbery conviction. The conviction and sentence were affirmed on appeal by the Oklahoma Court of Criminal Appeals (“OCCA”).

The petitioner asserted the same two grounds for relief in his habeas petition that he raised on direct appeal. In a thorough and well-reasoned Report and Recommendation, the magistrate judge rejected the petitioner’s claims.

The petitioner did not object to the magistrate judge’s Report and Recommendation. Therefore, he waived his right to appellate review of the factual and

legal issues addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). See 28 U.S.C. § 636(b)(1)(C); LCvR72.1.

Accordingly, the court adopts Magistrate Judge Purcell's Report and Recommendation, and **DENIES** the petition for writ of habeas corpus.

IT IS SO ORDERED.

Dated this 13th day of Dec., 2007.



JOE HEATON
UNITED STATES DISTRICT JUDGE